BRIAN J. STRETCH (CABN 163973) United States Attorney 2 SARA WINSLOW (DCBN 457643) Chief, Civil Division 3 ANN MARIE REDING (CABN 226864) Assistant United States Attorney 5 Judge Maria Elena James 450 Golden Gate Avenue, Box 36055 6 San Francisco, California 94102-3495 Telephone: (415) 436-3618 FAX: (415) 436-6748 7 annie.reding@usdoj.gov 8 DISTRIC Attorneys for Defendant 9 UNITED STATES DISTRICT COURT 10 NORTHERN DISTRICT OF CALIFORNIA 11 SAN FRANCISCO DIVISION 12 13 QUO VAT ESTELL, Case No.: 3:15-cv-04898-MEJ Plaintiff, 14 STIPULATION ALLOWING DEFENDANT 15 LEAVE TO FILE AMENDED MOTION TO v. **DISMISS** 16 JOHN MCHUGH, SECRETARY, U.S. ARMY, 17 Defendant. 18 19 Plaintiff Quo Vat Estell ("Plaintiff") and Defendant Eric K. Fanning, Secretary, United States Army ("Defendant"), by and through their respective counsel, make the following representations and 20 21 stipulate and agree as follows: 22 On May 31, 2016, Defendant filed a motion to dismiss Plaintiff's First Amended Complaint. Dkt. No. 15. 23 24 2. On June 3, 2016, Defendant contacted Plaintiff and indicated that there is a factual error in Defendant's motion which, once corrected, will eliminate one argument made in the motion. 25 Specifically, Plaintiff received her Notice of Right to File a Formal Complaint of Discrimination by 26 27 certified mail on April 1, 2014. Defendant's motion currently states that Plaintiff received the Notice 28 document on March 26, 2014, as indicated in the Equal Employment Opportunity ("EEO") Counselor's

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report, which is an error. Defendant wishes to withdraw the argument that Plaintiff's Formal EEO 2 complaint was untimely filed. See Dkt. No. 15 at Section III(C)(1). 3. 3 Based on the foregoing, the parties stipulate and agree that Defendant may file an amended motion to dismiss on June 3, 2016 correcting the above-referenced fact and withdrawing the 4 5 affected argument. Defendant will not add any new argument to the amended motion. 6 4. Plaintiff will have the requisite fourteen days to oppose the amended motion, and 7 Defendant will have seven days to respond. 8 5. The parties stipulate and agree to a July 14, 2016 hearing date for the amended motion. 9 **DATED:** June 3, 2016 Respectfully submitted, 10 /s/ Maureen E. McFadden MAUREEN E. McFADDEN 11 Counsel for Plaintiff 12 **DATED:** June 3, 2016 Respectfully submitted, 13 BRIAN J. STRETCH 14 United States Attorney 15 /s/ Ann Marie Reding<sup>1</sup> ANN MARIE REDING 16 Assistant United States Attorney 17 Attorneys for Defendant 18 19 20 21 22 23 24 25 26 27 <sup>1</sup> I, Ann Marie Reding, hereby attest that I obtained the concurrence in the filing of this 28 document of all signatories whose signatures are represented by /s/.

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